

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

Thomas Fuentes,)	Case No. 8:20-cv-190
)	
Plaintiff,)	
)	
vs.)	
)	
MB Railway Services, LLC,)	
an Indiana Corporation, and)	
Union Pacific Railroad Company,)	
a Delaware Corporation,)	
)	
Defendants.)	

**PLAINTIFF'S MOTION FOR PARTIAL SUMMARY
JUDGMENT (FELA CLAIM)**

Plaintiff Thomas Fuentes respectfully moves this Court under Fed. R. Civ. P. 56 and NECivR 56.1 for an order granting partial summary judgment on his claim against Defendant Union Pacific Railroad Company (UP) brought under the Federal Employers' Liability Act (FELA), 45 U.S.C. §§ 51-60, with respect to the following:

1. The undisputed evidence establishes UP's negligence as a matter of law based on the negligent conduct of its employee, James Richter, or its agent's employee, Timothy Pirnie, or both.
2. The undisputed evidence establishes UP's negligent acts caused, in whole or in part, the October 4, 2018 incident and injury as a matter of law.
3. UP is unable to meet its burden of proof to establish a jury question related to its contributory negligence defense.

WHEREFORE, Plaintiff moves the Court for an Order finding that UP was negligent as a matter of law, and its negligence caused the incident in question and injury as a matter of law. Additionally, Plaintiff moves the Court for an Order dismissing UP's contributory negligence

defense. In addition to this Motion are Plaintiff's brief in support of his motion, his counsel's declaration, and his index of evidence.

Dated this 29th day of June 2021.

HUNEGS, LeNEAVE & KVAS, P.A.

s/William Kvas

William Kvas, #24930

Jayson D. Nelson, #2211-Omaha Office

1000 Twelve Oaks Center Drive, Suite 101

Wayzata, MN 55391

Tel: (612) 339-4511

Fax: (612) 339-5150

wkvas@hlklaw.com

jnelson@hlklaw.com

ATTORNEYS FOR PLAINTFF